

choosing to alter what is visible or audible when viewing a film, the focus of this legislation, and a separate entity choosing to create and distribute a single, altered version to members of the public. It is the sponsor's intent that only viewer directed changes to the viewing experience be immunized, and not the making or distribution of actual altered copies of the motion picture.

On a related point, the committee took notice of conflicting expert opinions on whether fixation is required to infringe the derivative work right under the Copyright Act, as well as whether evidence of Congressional intent in enacting the 1976 Copyright Act supports the notion that fixation should not be a prerequisite for the preparation of an infringing derivative work. The committee and the sponsors take no view of that disputed point of the law and leave that point to future developments in the courts or Congress. This legislation should not be construed to be predicated on or to take a position on whether fixation is necessary to violate the derivative work right, or whether the conduct that is immunized by this legislation would be infringing in the absence of this legislation.

Section 3 of the Family Movie Act provides for a limited exemption from trademark infringement for those engaged in the conduct described in the new section 110(11) of the Copyright Act. The substitute amendment makes several clarifying changes from the version as reported by the Committee.

In short, this section makes clear that a person engaging in the conduct described in section 110(11)—the “making imperceptible of portions of audio or video content of a motion picture or the creation or provision of technology to enable such making available—is not subject to trademark infringement liability based on that conduct, provided that person's conduct complies with the requirements of section 110(11). This section provides a similar exemption for a manufacturer, licensee or licensor of technology that enables such making imperceptible, but such manufacturer, licensee or licensor is subject to the additional requirement that it ensure that the technology provides a clear and conspicuous notice at the beginning of each performance that the performance of the motion picture is altered from the performance intended by the director or the copyright holder.

Of course, nothing in this section would immunize someone whose conduct, apart from the narrow conduct described by 110(11), rises to the level of a Lanham Act violation.

For example, someone who provides technology to enable the making imperceptible limited portions of a motion picture consistent with section 110(11) could not be held liable on account of such conduct under the Trademark Act, but if in providing such technology the person also makes an infringing use of a protected mark or engages in other ancillary conduct that is infringing, such conduct would not be subject to the exemption provided here.

Finally, regarding Section 10(G), the Committee intends that the government has the burden to prove beyond a reasonable doubt that the service provider is ineligible for a Section 512 safe harbor from monetary relief for performing the function in question. The Committee also intends that courts refer to the legislative history regarding and case law interpreting Section 512 as a guide to interpreting the substantive standards governing whether

the service provider is ineligible for Section 512 protection.

MARRIAGE PROTECTION AMENDMENT

SPEECH OF

HON. RAÚL M. GRIJALVA

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 30, 2004

Mr. GRIJALVA. Mr. Speaker, I rise today to express my strong objection to this so-called “marriage protection” amendment. Furthermore, I am appalled that we are spending three and a half hours debating this issue when Americans are struggling to cope with much more serious issues, with little or no help from this body.

The sponsors of this bill claim that there is a dire need to amend the Constitution in order to protect and promote the notion of healthy, stable families. I support the notion of “healthy families” but I could suggest a number of methods we could use to reach this goal that do not include discriminating against an entire class of American citizens.

We could provide healthcare to the over 40 million uninsured Americans.

We could work to offer a real prescription drug benefit for seniors so they do not need to choose between food and medicine.

We could offer real solutions to create economic opportunity for all.

We could provide the funding necessary to allow all children to go to school in a safe and healthy environment.

We could strengthen programs that combat domestic violence.

We could renew the assault weapons ban.

We do not need to prevent two people who love each other from being legally recognized as such.

These are serious issues that too many Americans struggle with every day. These are serious problems that Congress could address if we had the time and dedication to the real issues. Instead, we stand on the floor today playing party politics on a stage that has been held hostage by the Republican House leadership's election year politics to consider an initiative that the Senate has already overwhelmingly rejected.

Mr. Speaker, I urge my colleagues to vote against this unnecessarily divisive election year proposal.

PAYING TRIBUTE TO FLORIE MASSAROTTI

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Monday, October 4, 2004

Mr. McINNIS. Mr. Speaker, it is with great pride that I rise today to pay tribute to Florie Massarotti, a truly dedicated community leader from Cokedale, Colorado. Florie has been participating in the Boy Scouts for over fifty years, both as a young member and as an adult leader in various positions. The mentorship he has provided to many children in Las Animas County is exemplary, and I would like to join my colleagues here today in recognizing his

tremendous achievements before this body of Congress and this Nation.

Florie began his long association and service with the Boy Scouts at the age of twelve in Cokedale. After graduating high school, he stopped participating for several years, during which time the local troop was disbanded. When, in 1958, the Holy Name Society reorganized the troop, Florie volunteered as a third assistant scoutmaster. Two weeks later he became the Scoutmaster. For twenty years, Florie headed his troop, passing on the leadership role to his successor, while assuming a position as a council member. In the 1990's, when the Scoutmaster position was vacated, he took the lead until a replacement was found. Today, in addition to serving as a council member, Florie is a member of the Rocky Mountain Council Executive Board. In recognition for his commendable contributions, Florie was awarded the St. George Award, a Roman Catholic award for adults in Scouting, the 50-year Pin, and the Silver Beaver that is awarded to Scouters with distinguished service.

Mr. Speaker, it is a privilege to honor Florie Massarotti for his half-century of contributions to the Boy Scouts. His actions serve as an example, and it is with great pleasure to recognize him today before this body of Congress and this Nation. Thank you, Florie, and I wish you well with all of your future endeavors.

50 YEARS OF RADIO FREE EUROPE/RADIO LIBERTY BROADCASTING IN UKRAINE

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 4, 2004

Mr. LANTOS. Mr. Speaker, 50 years ago, Congress authorized a program of U.S. radio broadcasts to Ukraine that had enormous historical importance, and still do today. We know that the transition to democracy and genuine freedom of speech in the former communist countries has never been easy to implement, but such broadcasts are an essential component. Thomas A. Dine, the President of the RFE/RL, is one of my dear and closest friends. He has been a tireless fighter for democracy, human rights, press freedoms, and rule of law in Ukraine and other countries of Eastern Europe and the former Soviet Union. I want to honor his contribution to the cause of freedom and democracy in Ukraine by including this speech he delivered last month in Kharkiv, Ukraine, in the CONGRESSIONAL RECORD.

TODAY'S UKRAINE: THE LACK OF DEMOCRATIC FREEDOMS

(By Thomas A. Dine)

I am in Ukraine at this time for several reasons:

First, to celebrate the 50th anniversary of Radio Liberty's Ukrainian broadcasting service. Radio Liberty has been a source of objective news and information for the people of Ukraine for fifty years—for this fact, I am honored to head Radio Free Europe/Radio Liberty and to be associated with the men and women who have brought first-class journalism to Ukraine's airwaves for half a century. Second, to remind as many Ukrainians as possible that in February 2004, the Kuchma Government kicked Radio Liberty